

AMENDED IN ASSEMBLY MAY 28, 1999  
AMENDED IN ASSEMBLY APRIL 26, 1999  
AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1526**

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**Introduced by Assembly Member Thompson**

(Principal coauthor: Senator Ortiz)

**(Coauthors: Assembly Members Bates, Campbell, Machado,  
Pescetti, Runner, and Soto)**

(Coauthor: Senator Rainey)

February 26, 1999

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An act to amend Sections 56828, 56833.1, 56833.3, 56840, 56842, 56845, 56851, 56857, 57002, and 57050 of, and to add Sections 56828.5, ~~56845.1, and 56845.2~~ *and 56845.1* to, the Government Code, ~~to amend Sections 4126 and 4127 of the Public Resources Code, to add Section 99.04 to the Revenue and Taxation Code,~~ and to add Section 2400.1 to the Vehicle Code, relating to local agency formation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1526, as amended, Thompson. Local agency formation.

(1) Under the Cortese-Knox Local Government Reorganization Act of 1985, the executive officer of the local agency formation commission of the principal county is required to give mailed notice immediately that an application of a petitioner or legislative body has been

submitted to initiate proceedings for a change of organization or reorganization. The notice is required to be sent to each interested agency and each subject agency. The executive officer may not issue a certificate of filing of the application for at least 20 days after giving the mailed notice. Existing law requires that, following the issuance of the certificate of filing, the executive officer set the proposal for hearing not more than 90 days after the issuance of the certificate or acceptance of the application, whichever is earlier.

This bill would require, when the certificate of filing includes an incorporation, that the county and each affected agency deliver specified fiscal data to the commission's executive officer who would be required to set a hearing date not more than 120 days after the issuance of the certificate of filing or acceptance of the application, whichever is earlier.

(2) Existing law requires the executive officer to prepare or cause to be prepared a comprehensive fiscal analysis for any proposal that includes an incorporation. Existing law requires the executive officer, at the request of an interested party, to request the Controller to review the analysis and permits the Controller to charge the commission for costs incurred. The commission may in turn recover the costs from the person who requested the review. The analysis is required to include the costs to the proposed city of providing public services and facilities for the 3 fiscal years following incorporation.

This bill would require the executive officer to specify the most recent fiscal year to be used as a basis for the comprehensive fiscal analysis. This bill would prohibit the recovery of costs by the commission if the Controller's report questions the accuracy or reliability of the analysis. This bill would delineate the criteria to be followed in determining those costs and would establish a procedure for a city whose incorporation election occurs on or after January 1, 2000, to contest property tax revenue exchange determinations. By imposing additional responsibilities on local agency formation commissions, the bill would impose a state-mandated local program.

~~(3) Existing law provides that the commission shall not approve a proposal that includes an incorporation unless it finds that revenues currently received by the local agency~~



~~transferring the affected territory that would otherwise accrue to the local agency receiving the affected territory is substantially equal to the expenditures of the transferring agency for those services that will be assumed by the receiving agency. However, the commission may approve the proposal if it finds that the county and all subject agencies have agreed to the proposed transfer or the negative fiscal impact has been adequately mitigated by other agreements or conditions.~~

~~This bill would require the commission, at the request of any city incorporated between January 1, 1993, and January 1, 2000, and for which mitigation payments are required, to calculate the costs of public services provided by state agencies in the previously unincorporated area and to notify the county auditor and school entities within the area of the costs of those state services. The bill would require the auditor to transfer to the new city the amount of property tax revenue from school entities equal to the costs of public safety services formerly provided by the state. The bill would make other, related changes.~~

~~(4)~~ Existing law permits continuation of the hearing from time to time but not to exceed 70 days from the date specified in the original notice.

This bill would reduce the time for continuation to 30 days and permit continuation with the written approval of the chief petitioners.

~~(5)~~

~~(4)~~ Existing law requires the commission to adopt a resolution making determinations about the proposal or reorganization not later than 35 days after the conclusion of the hearing.

This bill would reduce that time period to 20 days.

~~(6)~~

~~(5)~~ Existing law permits the commission to continue consideration of a request to amend or reconsider any resolution for up to 70 days.

This bill would reduce that time period to 30 days.

~~(7)~~

~~(6)~~ Existing law requires the clerk of the conducting authority to set the proposal for hearing within 35 days

following the commission's resolution making determinations.

This bill instead would require the clerk, within 10 days of the commission's adoption of the resolution, to set the proposal for hearing at the next regularly scheduled hearing that provides sufficient time for public notice of the hearing.

~~(8)–~~

(7) Existing law permits continuation of the conducting authority hearing on the proposal not to exceed 60 days.

This bill would reduce that time period to 30 days.

~~(9) Existing law requires the State Board of Forestry and Fire Protection to include within state responsibility areas lands meeting specified criteria and excludes from these areas lands within the exterior boundaries of a city.~~

~~This bill would include within those state responsibility areas, lands meeting those criteria that are contained within the boundaries of any city incorporated on or after January 1, 1993, and would exclude lands within the exterior boundaries of a city incorporated prior to January 1, 1993.~~

~~(10)–~~

(8) Existing law specifies the responsibility and jurisdiction of the Commissioner of the California Highway Patrol for the administration and enforcement of laws regulating the operation of vehicles and the use of the highways.

This bill would provide that at the request of any city incorporated on or after January 1, 1993, the commissioner shall have the full responsibility and primary jurisdiction for the administration and enforcement of the laws and the investigation of traffic accidents on all highways within that city for a period of 10 years from the date of incorporation.

~~(11)–~~

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 56828 of the Government Code  
2 is amended to read:

3 56828. (a) Any petitioner or legislative body desiring  
4 to initiate proceedings shall submit an application to the  
5 executive officer of the principal county.

6 (b) Immediately after receiving an application and  
7 before issuing a certificate of filing, the executive officer  
8 shall give mailed notice that the application has been  
9 received to each interested agency and each subject  
10 agency. The notice shall generally describe the proposal  
11 and the affected territory. The executive officer shall not  
12 be required to give notice pursuant to this subdivision if  
13 a local agency has already given notice pursuant to  
14 subdivision (b) of Section 56800.

15 (c) If a special district is, or as a result of a proposal will  
16 be, located in more than one county, the executive officer  
17 of the principal county shall immediately give the  
18 executive officer of each other affected county mailed  
19 notice that the application has been received. The notice  
20 shall generally describe the proposal and the affected  
21 territory.

22 (d) Except when a commission is the lead agency  
23 pursuant to Section 21067 of the Public Resources Code,  
24 the executive officer shall determine within 30 days of  
25 receiving an application whether the application is  
26 complete and acceptable for filing or whether the  
27 application is incomplete.

28 (e) The executive officer shall not accept an  
29 application for filing and issue a certificate of filing for at  
30 least 20 days after giving the mailed notice required by  
31 subdivision (b). The executive officer shall not be

1 required to comply with this subdivision in the case of an  
2 application which meets the requirements of Section  
3 56837 or in the case of an application for which a local  
4 agency has already given notice pursuant to subdivision  
5 (b) of Section 56800.

6 (f) If the appropriate fees have been paid, an  
7 application shall be deemed accepted for filing if no  
8 determination has been made by the executive officer  
9 within the 30-day period. An executive officer shall  
10 accept for filing, and file, any application submitted in the  
11 form prescribed by the commission and containing all of  
12 the information and data required pursuant to Section  
13 56652.

14 (g) When an application is accepted for filing, the  
15 executive officer shall immediately issue a certificate of  
16 filing to the applicant. A certificate of filing shall be in the  
17 form prescribed by the executive officer and shall specify  
18 the date upon which the proposal shall be heard by the  
19 commission. From the date of issuance of a certificate of  
20 filing, or the date upon which an application is deemed  
21 to have been accepted, whichever is earlier, an  
22 application shall be deemed filed pursuant to this  
23 division.

24 (h) If an application is determined not to be complete,  
25 the executive officer shall immediately transmit that  
26 determination to the applicant specifying those parts of  
27 the application which are incomplete and the manner in  
28 which they can be made complete.

29 (i) Following the issuance of the certificate of filing,  
30 the executive officer shall proceed to set the proposal for  
31 hearing and give published notice thereof as provided in  
32 this part. The date of the hearing shall be not more than  
33 90 days after issuance of the certificate of filing or after the  
34 application is deemed to have been accepted, whichever  
35 is earlier. Notwithstanding Section 56106, the date for  
36 conducting the hearing, as determined pursuant to this  
37 subdivision, is mandatory.

38 (j) Notwithstanding subdivision (i), following the  
39 issuance of the certificate of filing that includes an  
40 incorporation, the executive officer shall immediately



1 notify all affected agencies and request the affected  
2 agencies to submit the required fiscal data required  
3 pursuant to Section 56828.5, and proceed to set the  
4 proposal for hearing and give published notice thereof as  
5 provided in this part. The date of the hearing shall be not  
6 more than 120 days after issuance of the certificate of  
7 filing or after the application is deemed to have been  
8 accepted, whichever is earlier. Notwithstanding Section  
9 56106, 56840, or any other provision of law, the date for  
10 conducting the hearing, as determined pursuant to this  
11 subdivision, is mandatory. No extension of the time  
12 period established by this subdivision shall be permitted  
13 without the written concurrence of the applicant  
14 legislative body or chief petitioners.

15 SEC. 2. Section 56828.5 is added to the Government  
16 Code, to read:

17 56828.5. (a) Following the commission's notification  
18 of affected agencies of the issuance of the certificate of  
19 filing, pursuant to Section 56828, the county and each  
20 affected agency shall deliver fiscal data to the  
21 commission's executive officer within 60 days, which shall  
22 contain all of the following information:

23 (1) All revenues from any and all sources generated  
24 within the area proposed to be incorporated.

25 (2) Objective data substantiating all costs incurred by  
26 the county and each affected agency in auditable form  
27 both direct and indirect related to the provision of the  
28 same level of services in the affected area. All cost data  
29 shall be provided in an auditable form by which all  
30 expenditures and costs in the base year may be tracked.

31 (3) An analysis, based upon objective data previously  
32 submitted to the Controller, of the financial effect of the  
33 incorporation on both of the following:

34 (A) The provision of locally established services and  
35 programs of each affected agency that will continue to be  
36 provided to the affected area following incorporation.  
37 The impact on locally established services and programs  
38 shall be described program by program, and detail the  
39 sources of funds used to pay the costs of each affected  
40 agency in auditable form, and include the average per

1 capita cost of these programs to each resident of the  
2 county, or the affected agency, for paying for that service.

3 (B) The provision of countywide state mandated  
4 programs. The impact on state mandated programs shall  
5 be broken out program by program, and detail the  
6 sources of funds used to pay for the countywide costs of  
7 those programs, and the average per capita cost to each  
8 resident of the county for paying for that service.

9 (b) It is the intent of the Legislature that an  
10 incorporation proposal shall not be unnecessarily delayed  
11 by the inaction of affected agencies. Therefore, if the  
12 county or affected local agency fails to deliver the  
13 required data within 60 days of notification of the issuance  
14 of the certificate of filing, the executive officer shall  
15 complete the analysis of the fiscal effects of incorporation  
16 using the fiscal analysis prepared by the incorporation  
17 proponents, along with any other relevant information or  
18 analysis deemed necessary by the executive officer.

19 (c) For purposes of this section, “objective data”  
20 means documented financial information presented in  
21 auditable form. If objective data is not available for any  
22 cost or revenue element, those costs or revenues shall be  
23 based on the statewide average of costs or revenues  
24 associated with the provision of similar service, using  
25 generally accepted governmental accounting principles  
26 approved by the Controller.

27 SEC. 3. Section 56833.1 of the Government Code is  
28 amended to read:

29 56833.1. For any proposal which includes an  
30 incorporation, the executive officer shall prepare, or  
31 cause to be prepared by contract, a comprehensive fiscal  
32 analysis. This analysis shall become part of the report  
33 required pursuant to Section 56833. Data used for the  
34 analysis shall be from the most recent fiscal year for which  
35 data are available. The executive officer shall specify the  
36 most recent fiscal year to be used as a basis for the  
37 comprehensive fiscal analysis upon the issuance of the  
38 certificate of filing. Only data from the most recent fiscal  
39 year identified by the executive officer in the certificate  
40 of filing shall be used for any future analyses,





1 deliberations, or litigation related to an incorporation,  
2 provided that no more than two years expired between  
3 the end of the fiscal year identified in the certificate of  
4 filing and the date that the resolution by the commission  
5 approving the incorporation proposal was adopted. The  
6 analysis shall review and document each of the following:

7 (a) The costs to the proposed city of providing public  
8 services and facilities during the three fiscal years  
9 following incorporation in accordance with the following  
10 criteria:

11 (1) When determining costs, the executive officer  
12 shall include all direct and indirect costs associated with  
13 the current provision of existing services in the area  
14 proposed to be incorporated. These costs should reflect  
15 the actual costs at which the existing level of service  
16 would be contracted by the proposed city following an  
17 incorporation, if the city elects to do so, and shall include  
18 any general fund expenditures used to support a  
19 fee-supported service where the full costs of providing  
20 the service are not fully recovered through fees. The  
21 executive officer shall also identify which of these costs  
22 shall be transferred to the new city that result in an  
23 administrative cost reduction to other agencies. In the  
24 analysis, the executive officer shall also review how the  
25 costs of any existing services compare to the costs of a  
26 similar level of services provided in incorporated cities of  
27 a similar size and shall make a reasonable determination  
28 of the costs expected to be borne by the newly  
29 incorporated city.

30 (2) When determining costs, the executive officer  
31 shall also include all direct and indirect costs of any public  
32 services that are proposed to be assumed by the new city  
33 and that are provided by state agencies in the area  
34 proposed to be incorporated.

35 (b) The revenues of the proposed city during the  
36 three fiscal years following incorporation.

37 (c) The effects on the costs and revenues of any  
38 affected local agency during the three fiscal years of  
39 incorporation.

1 (d) Any other information and analysis needed to  
2 make the findings required by Section 56375.1.

3 SEC. 4. Section 56833.3 of the Government Code is  
4 amended to read:

5 56833.3. (a) For any proposal which includes an  
6 incorporation, the executive officer shall, at the request  
7 of an interested party, which is submitted pursuant to  
8 paragraph (b), and prior to issuing his or her report and  
9 recommendation pursuant to Section 56833, request the  
10 Controller to review the comprehensive fiscal analysis  
11 prepared pursuant to Section 56833.1, including any  
12 proposed mitigation payment required pursuant to  
13 Section 56845. The request by an interested party shall  
14 specify in writing the element or elements of the  
15 comprehensive fiscal analysis which the Controller is  
16 requested to review and the reasons the Controller is  
17 requested to review them.

18 (b) The commission may adopt written procedures for  
19 the acceptance, referral, and payment for a request for  
20 the Controller's review, which shall include setting a time  
21 period during which an interested party is permitted to  
22 submit a request pursuant to subdivision (a). The time  
23 period for accepting a request shall not be less than 30  
24 days following notice given in the same manner as  
25 specified in Section 56153.

26 (c) Within 45 days of receiving the analysis, the  
27 Controller shall issue a report to the executive officer  
28 regarding the accuracy and reliability of the information,  
29 methodologies, documentation, or conclusions used in  
30 the analysis, including any proposed mitigation payment  
31 required pursuant to Section 56845. The times within  
32 which the executive officer or commission is required to  
33 act pursuant to this chapter shall be tolled for the time  
34 required by the Controller for completion of the report.  
35 The executive officer shall include the results of the  
36 Controller's report into his or her own report and  
37 recommendation issued pursuant to Section 56833.

38 (d) Notwithstanding Sections 56378 and 56386, the  
39 Controller may charge the commission for the actual  
40 costs incurred pursuant to this section. If the Controller's

1 report indicates that the information, methodologies,  
2 documentation, and conclusions used in the analysis are  
3 accurate and reliable, the commission may recover these  
4 costs by charging the person who requested the  
5 Controller's review. The commission may not recover  
6 costs from the interested party if the Controller's report  
7 questions the accuracy or reliability of the information,  
8 methodologies, documentation, or conclusions used in  
9 the analysis.

10 SEC. 5. Section 56840 of the Government Code is  
11 amended to read:

12 56840. (a) The hearing shall be held by the  
13 commission upon the date and at the time and place  
14 specified. The hearing may be continued with the written  
15 approval of the chief petitioners, but not to exceed 30 days  
16 from the date specified in the original notice.

17 (b) At the hearing, the commission shall hear and  
18 receive any oral or written protests, objections, or  
19 evidence which shall be made, presented, or filed, and  
20 consider the report of the executive officer and the plan  
21 for providing services to the territory prepared pursuant  
22 to Section 56653.

23 SEC. 6. Section 56842 of the Government Code is  
24 amended to read:

25 56842. (a) (1) If the proposal includes the  
26 incorporation of a city, as defined in Section 56043, the  
27 commission shall determine the amount of property tax  
28 revenue to be exchanged by the affected local agency  
29 pursuant to this section and Section 56845.

30 (2) If the proposal includes the formation of a district,  
31 as defined in Section 2215 of the Revenue and Taxation  
32 Code, the commission shall determine the amount of  
33 property tax to be exchanged by the affected local agency  
34 pursuant to this section.

35 (b) The commission shall notify the county auditor of  
36 the proposal and the services which the new jurisdiction  
37 proposes to assume within the area, and identify for the  
38 auditor the existing service providers within the area  
39 subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs which were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost which was funded by any revenues of that agency which are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion

1 determined pursuant to paragraph (1) to derive the  
2 amount of property tax revenue used to provide services  
3 by each affected local agency during the prior fiscal year  
4 within the area subject to the proposal. The county  
5 auditor shall adjust the amount described in the previous  
6 sentence by the annual tax increment according to the  
7 procedures set forth in Chapter 6 (commencing with  
8 Section 95) of Part 0.5 of Division 1 of the Revenue and  
9 Taxation Code, to the fiscal year in which the new city or  
10 district receives its initial allocation of property taxes.

11 (4) For purposes of this subdivision, in any county in  
12 which, prior to the adoption of Article XIII A of the  
13 California Constitution, and continuing thereafter, a  
14 separate fund or funds were established consisting of  
15 revenues derived from the unincorporated area of the  
16 county and from which fund or funds services rendered  
17 in the unincorporated area have been paid, the amount  
18 of property tax revenues derived pursuant to paragraph  
19 (3), may, at the discretion of the commission, be  
20 transferred to the proposed city over a period not to  
21 exceed 12 fiscal years following its incorporation. In  
22 determining whether the transfer of the amount of  
23 property tax revenues determined pursuant to paragraph  
24 (3) shall occur entirely within the fiscal year immediately  
25 following the incorporation of the proposed city or shall  
26 be phased in over a period not to exceed 12 full fiscal years  
27 following the incorporation, the commission shall  
28 consider each of the following:

29 (A) The total amount of revenue from all sources  
30 available to the proposed city.

31 (B) The fiscal impact of the proposed transfer on the  
32 transferring agency.

33 (C) Any other relevant facts which interested parties  
34 to the exchange may present to the commission in written  
35 form.

36 The decision of the commission shall be supported by  
37 written findings setting forth the basis for its decision.

38 (d) If the proposal would transfer all of an affected  
39 agency's service responsibilities to the proposed city or  
40 district, the commission shall request the auditor to

1 determine the property tax revenue generated for the  
2 affected service providers by tax rate area, or portion  
3 thereof, and transmit that information to the commission.

4 (e) The executive officer shall notify the auditor of the  
5 amount determined pursuant to paragraph (3) of  
6 subdivision (c) or subdivision (d), as the case may be,  
7 and, where applicable, the period of time within which  
8 and the procedure by which the transfer of property tax  
9 revenues will be effected pursuant to paragraph (4) of  
10 subdivision (c), at the time the executive officer records  
11 a certificate of completion pursuant to Section 57203 for  
12 any proposal described in subdivision (a), and the auditor  
13 shall transfer that amount to the new jurisdiction.

14 (f) The amendments to this section enacted during  
15 the 1985–86 Regular Session of the Legislature shall apply  
16 to any proposal described in subdivision (a) for which a  
17 certificate of completion is recorded with the county  
18 recorder on or after January 1, 1987.

19 (g) For purposes of this section, “prior fiscal year”  
20 means the most recent fiscal year for which data on actual  
21 direct and indirect costs and revenues needed to perform  
22 the calculations required by this section are available  
23 preceding the fiscal year in which the commission  
24 approves by resolution the city’s proposal to incorporate  
25 or the district’s proposal to form.

26 (h) An action brought by a district to contest any  
27 determinations of the county auditor or the commission  
28 with regard to the amount of property tax revenue to be  
29 exchanged by the affected local agency pursuant to this  
30 section shall be commenced within three years of the  
31 effective date of the district’s formation. These actions  
32 may be brought by any district that formed on or after  
33 January 1, 1986.

34 (i) This section applies to any city that incorporated or  
35 district that formed on or after January 1, 1986.

36 (j) Notwithstanding subdivision (i), or any other  
37 provision of law, for any incorporation for which an  
38 election occurs on and after January 1, 2000, any action  
39 brought by a city to contest any determinations of the  
40 county auditor or the commission with regard to the

1 amount of property tax revenue to be exchanged by the  
2 affected local agency pursuant to this section shall be  
3 brought pursuant to the requirements of Section 56845.1.

4 (k) The calculations and procedures specified in this  
5 section shall be made prior to and shall be incorporated  
6 into the calculations specified in Section 56845.

7 SEC. 7. Section 56845 of the Government Code is  
8 amended to read:

9 56845. (a) It is the intent of the Legislature that any  
10 proposal that includes an incorporation should result in a  
11 similar exchange of both revenue and responsibility for  
12 service delivery among the county, the proposed city, and  
13 other subject agencies. It is the further intent of the  
14 Legislature that an incorporation should not occur  
15 primarily for financial reasons.

16 (b) The commission shall not approve a proposal that  
17 includes an incorporation unless it finds that the following  
18 two quantities are substantially equal:

19 (1) Revenues currently received by the local agency  
20 transferring the affected territory which, but for the  
21 operation of this section, would accrue to the local agency  
22 receiving the affected territory.

23 (2) Expenditures, including direct and indirect  
24 expenditures, currently made by the local agency  
25 transferring the affected territory for those services  
26 which will be assumed by the local agency receiving the  
27 affected territory.

28 (c) Notwithstanding subdivision (b), the commission  
29 may approve a proposal that includes an incorporation if  
30 it finds either of the following:

31 (1) The county and all of the subject agencies agree to  
32 the proposed transfer.

33 (2) The negative fiscal effect has been adequately  
34 mitigated by tax sharing agreements, lump-sum  
35 payments, payments over a fixed period of time, or any  
36 other terms and conditions pursuant to Section 56844.

37 (d) Nothing in this section is intended to change the  
38 distribution of growth on the revenues within the  
39 affected territory unless otherwise provided in the



1 agreement or agreements specified in paragraph (2) of  
2 subdivision (c).

3 (e) Any terms and conditions that mitigate the  
4 negative fiscal effect of a proposal that contains an  
5 incorporation shall be included in the commission  
6 resolution making determinations adopted pursuant to  
7 Section 56851 and the terms and conditions specified in  
8 the questions pursuant to Section 57134.

9 SEC. 8. Section 56845.1 is added to the Government  
10 Code, to read:

11 56845.1. If an issue or dispute is raised by either the  
12 county or the new city regarding any mitigation  
13 condition established pursuant to Sections 56842 and  
14 56845, then that issue or dispute shall be resolved  
15 pursuant to the requirements in this section.

16 (a) Not later than 14 months after the first July 1  
17 following the effective date of an incorporation, or at an  
18 earlier time established by mutual agreement of the  
19 parties, the representatives of the new city and the  
20 county shall meet to review the accuracy of any disputed  
21 fiscal data including direct and indirect costs and  
22 proposed revenue on which any mitigation condition that  
23 was included on the ballot as part of the incorporation  
24 proposal was based. The review of the disputed fiscal data  
25 shall last no longer than 60 days. If the parties are unable  
26 to reach agreement on any disputed items within the  
27 60-day period, the city and the county shall mutually  
28 select a mediator, funded in equal portions by those  
29 agencies, to mediate solutions between the parties for an  
30 additional 60 days. If the parties are unable to agree to a  
31 solution within an additional 60 days, then each party shall  
32 prepare a last, best, and final offer and submit them to the  
33 mediator for an advisory opinion on the matter.

34 Proceedings under this subdivision shall be concluded  
35 no more than 150 days after the initiation of discussions  
36 between the affected agencies, unless one or more of the  
37 periods specified in this subdivision is extended or waived  
38 by the mutual agreement of the affected agencies. Any  
39 agreement reached by the parties pursuant to this  
40 subdivision shall supersede any provision or condition



1 included in the incorporation proposal and shall take  
2 effect upon the date agreed to by the parties. If the parties  
3 are unable to reach agreement pursuant to the provision  
4 of this subdivision, the parties shall have the option to  
5 exercise their authority pursuant to subdivision (b).

6 (b) If the parties are unable to agree to a solution  
7 pursuant to subdivision (a), either of the parties may file  
8 an action to contest any mitigation condition established  
9 pursuant to Sections 56842 and 56845, and disputed fiscal  
10 data including costs, indirect costs, and proposed revenue  
11 on which any mitigation condition that was included on  
12 the ballot as part of the incorporation proposal was based.  
13 Any action brought pursuant to this subdivision shall be  
14 commenced within six months following the conclusion  
15 of discussions between the parties pursuant to subdivision  
16 (a).

17 (c) Any ballot measure after January 1, 2000, that  
18 proposes an incorporation shall require any future  
19 dispute regarding any cost, including indirect costs, and  
20 revenues which serve as the basis for a transfer of costs  
21 and revenues pursuant to Sections 56842 and 56845 to be  
22 resolved pursuant to this section.

23 ~~SEC. 9. Section 56845.2 is added to the Government~~  
24 ~~Code, to read:~~

25 ~~56845.2. Notwithstanding any other provision of law,~~  
26 ~~at the request of any city for which the effective date of~~  
27 ~~incorporation occurred between January 1, 1993, and~~  
28 ~~January 1, 2000, and for which mitigation payments are~~  
29 ~~required to be made to affected agencies pursuant to~~  
30 ~~Section 56845, the commission shall calculate the cost,~~  
31 ~~including any indirect costs, of any public services~~  
32 ~~provided by state agencies in the unincorporated area~~  
33 ~~prior to incorporation. The commission shall notify the~~  
34 ~~county auditor of the costs of state services and the~~  
35 ~~existing school entities within the area subject to the~~  
36 ~~incorporation. The auditor shall transfer to the new city~~  
37 ~~the amount of property tax revenue from school entities~~  
38 ~~equal to the costs of public safety services, which were~~  
39 ~~formerly provided by the state, as determined by the~~  
40 ~~commission. For each fiscal year thereafter, the auditor~~

~~1 shall determine annual growth of the transferred amount  
2 and transfer this amount to the new city from the school  
3 entities. Any allocation of tax revenues shall commence  
4 at the beginning of the first fiscal year following the  
5 request of a city for which the effective date of  
6 incorporation occurred after Section 56845 was added to  
7 the Government Code. No repayment for costs accruing  
8 in prior fiscal years between the effective date of  
9 incorporation and the commencement of revenue  
10 transfers pursuant to this subdivision shall be required to  
11 be transferred to the new city. All allocations of tax  
12 revenues pursuant to this section shall expire on the date  
13 of expiration of the term of any mitigation payments  
14 required to be made pursuant to Section 56845.~~

~~15 SEC. 10.—~~

*SEC. 9.* Section 56851 of the Government Code is amended to read:

56851. At any time not later than 20 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal, with or without conditions, the plan of reorganization, or any alternative plan of reorganization as set forth in the report and recommendation of a reorganization committee. If the commission disapproves the proposal, plan of reorganization, or any alternative plan of reorganization, no further proceedings shall be taken on those proposals or plans.

~~29 SEC. 11.—~~

*SEC. 10.* Section 56857 of the Government Code is amended to read:

56857. (a) Any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of any resolution adopted by the commission making determinations. The request shall state the specific modification to the resolution being requested.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of

1 the initial or superseding resolution by the commission  
2 making determinations or prior to the adoption of a  
3 resolution by the conducting authority pursuant to  
4 Chapter 4 (commencing with Section 57075), whichever  
5 is earlier. If no person or agency files a timely request, the  
6 commission shall not take any action pursuant to this  
7 section.

8 (c) Upon receipt of a timely request, the executive  
9 officer shall immediately notify the conducting authority  
10 which shall not take any further action until the  
11 commission acts on the request.

12 (d) Upon receipt of a timely request by the executive  
13 officer, the time to file an action pursuant to Section 21167  
14 of the Public Resources Code and any provisions of Part  
15 4 (commencing with Section 57000) governing the time  
16 within which the conducting authority is to act shall be  
17 tolled for the time that the commission takes to act on the  
18 request.

19 (e) The executive officer shall place the request on the  
20 agenda of the next meeting of the commission for which  
21 notice can be given pursuant to this subdivision. The  
22 executive officer shall give notice of the consideration of  
23 the request by the commission in the same manner as for  
24 the original proposal. The executive officer may give  
25 notice in any other manner as he or she deems necessary  
26 or desirable.

27 (f) At that meeting, the commission shall consider the  
28 request and receive any oral or written testimony. The  
29 consideration may be continued from time to time but  
30 not to exceed 30 days from the date specified in the  
31 notice. The person or agency which filed the request may  
32 withdraw it at any time prior to the conclusion of the  
33 consideration by the commission.

34 (g) At the conclusion of its consideration, the  
35 commission may approve or disapprove with or without  
36 amendment, wholly, partially, or conditionally, the  
37 request. If the commission disapproves the request, it  
38 shall not adopt a new resolution making determinations,  
39 but shall direct the executive officer to notify the  
40 conducting authority of its action. If the commission

1 approves the request, with or without amendment,  
2 wholly, partially, or conditionally, the commission shall  
3 adopt a resolution making determinations which shall  
4 supersede the resolution previously issued.

5 (h) The determinations of the commission shall be  
6 final and conclusive. No person or agency shall make any  
7 further request for the same change or a substantially  
8 similar change, as determined by the commission.

9 (i) Notwithstanding subdivision (h), clerical errors or  
10 mistakes may be corrected pursuant to Section 56854.

11 ~~SEC. 12.~~—

12 *SEC. 11.* Section 57002 of the Government Code is  
13 amended to read:

14 57002. (a) Within 10 days following the adoption of  
15 the commission's resolution making determinations, the  
16 clerk of the conducting authority shall set the proposal for  
17 hearing at the next regularly scheduled hearing that  
18 provides sufficient time to give public notice of that  
19 hearing by mailing, publication, and posting, as provided  
20 in Chapter 4 (commencing with Section 56150) of Part 1.

21 (b) Where the proceeding is for the establishment of  
22 a district of limited powers as a subsidiary district of a city,  
23 upon the request of the affected district, the date of the  
24 hearing shall be at least 90 days, but no more than 135  
25 days, from the date the notice is given.

26 (c) If authorized by the commission pursuant to  
27 Section 56837, a change of organization or reorganization  
28 may be approved by resolution of the conducting  
29 authority without notice, hearing, and election.

30 ~~SEC. 13.~~—

31 *SEC. 12.* Section 57050 of the Government Code is  
32 amended to read:

33 57050. (a) The hearing on the proposal shall be held  
34 by the conducting authority on the date and at the time  
35 specified in the notice given by the clerk. The hearing  
36 may be continued from time to time but not to exceed 30  
37 days from the date specified for the hearing in the notice.

38 (b) At the hearing, prior to consideration of protests,  
39 the commission's resolution making determinations shall  
40 be summarized. At that hearing, the conducting

1 authority shall hear and receive any oral or written  
2 protests, objections, or evidence which is made,  
3 presented, or filed. Any person who has filed a written  
4 protest may withdraw that protest at any time prior to the  
5 conclusion of the hearing.

6 ~~SEC. 14. Section 4126 of the Public Resources Code is~~  
7 ~~amended to read:~~

8 ~~4126. The board shall include within state~~  
9 ~~responsibility areas all of the following lands:~~

10 ~~(a) Lands covered wholly or in part by forests or by~~  
11 ~~trees producing or capable of producing forest products.~~

12 ~~(b) Lands covered wholly or in part by timber, brush,~~  
13 ~~undergrowth, or grass, whether of commercial value or~~  
14 ~~not, which protect the soil from excessive erosion, retard~~  
15 ~~runoff of water or accelerate water percolation, if those~~  
16 ~~lands are sources of water that is available for irrigation~~  
17 ~~or for domestic or industrial use.~~

18 ~~(c) Lands in areas which are principally used or useful~~  
19 ~~for range or forage purposes, which are contiguous to the~~  
20 ~~lands described in subdivisions (a) and (b).~~

21 ~~(d) Lands that meet the requirements of this section~~  
22 ~~and are contained within the boundaries of any city~~  
23 ~~incorporated on or after January 1, 1993.~~

24 ~~SEC. 15. Section 4127 of the Public Resources Code is~~  
25 ~~amended to read:~~

26 ~~4127. The board shall not include within state~~  
27 ~~responsibility areas any of the following lands:~~

28 ~~(a) Lands owned or controlled by the federal~~  
29 ~~government or any agency of the federal government.~~

30 ~~(b) Lands within the exterior boundaries of any city~~  
31 ~~incorporated prior to January 1, 1993, except a city and~~  
32 ~~county with a population of less than 25,000 if, at the time~~  
33 ~~the city and county government is established, the county~~  
34 ~~contains no municipal corporations.~~

35 ~~(c) Any other lands within the state which do not~~  
36 ~~come within any of the classes which are described in~~  
37 ~~Section 4126.~~

38 ~~SEC. 16. Section 99.04 is added to the Revenue and~~  
39 ~~Taxation Code, to read:~~

~~99.04. (a) Notwithstanding any other provision of this chapter, at the request of a newly incorporated city that meets the requirements of Section 56845.2 of the Government Code, the county auditor shall allocate to the new city, in addition to any other amount of ad valorem property tax revenue required to be allocated to that city pursuant to Section 99, an amount of ad valorem property tax revenue equal to the costs, as calculated by the local agency formation commission pursuant to Section 56845.2, of the services provided by the Department of the California Highway Patrol in the unincorporated area prior to incorporation. The tax revenue shall be allocated from revenues that would otherwise be allocated to school entities within the same tax rate areas. For each fiscal year thereafter, until the expiration of any fiscal mitigation agreement required pursuant to Section 56845 of the Government Code, the auditor shall determine and allocate to the new city the annual growth of the property tax revenue transfer within the same tax rate areas. No repayment for costs accruing in prior fiscal years between the effective date of incorporation and the commencement of revenue transfers pursuant to this subdivision shall be required to be transferred to the new city.~~

~~(b) The Director of Finance shall annually adjust the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, to reflect those property tax revenue allocation modifications, required by the addition of this section in a manner that ensures that those modifications will have no net fiscal impact upon the amounts that are otherwise required to be applied by the state for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution.~~

~~SEC. 17.—~~

~~SEC. 13. Section 2400.1 is added to the Vehicle Code, to read:~~

~~2400.1. (a) Notwithstanding any other provision of this article or any other provision of law, at the request of~~

1 any city incorporated on and after January 1, 1993, the  
 2 commissioner shall have full responsibility and primary  
 3 jurisdiction for the administration and enforcement of  
 4 the laws, and the investigation of traffic accidents, on all  
 5 highways within that city for a period of 10 years from the  
 6 date of incorporation. After the 10-year period, the city  
 7 may either contract with the department for the  
 8 continuation of traffic services, or provide traffic  
 9 enforcement within its jurisdiction through some other  
 10 means.

11 (b) This section shall not apply to any city  
 12 incorporated between January 1, 1993, and January 1,  
 13 2000, that elects to receive property tax allocations  
 14 pursuant to Section 56845.2 of the Government Code and  
 15 Section 99.04 of the Revenue and Taxation Code.

16 ~~SEC. 18.~~

17 *SEC. 14.* Notwithstanding Section 17610 of the  
 18 Government Code, if the Commission on State Mandates  
 19 determines that this act contains costs mandated by the  
 20 state, reimbursement to local agencies and school  
 21 districts for those costs shall be made pursuant to Part 7  
 22 (commencing with Section 17500) of Division 4 of Title  
 23 2 of the Government Code. If the statewide cost of the  
 24 claim for reimbursement does not exceed one million  
 25 dollars (\$1,000,000), reimbursement shall be made from  
 26 the State Mandates Claims Fund.

